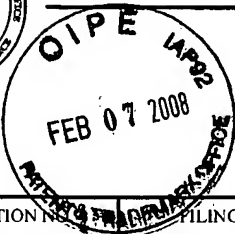




UNITED STATES PATENT AND TRADEMARK OFFICE

Ifw



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,905	12/14/2001	Michael Von der Geest	3107-237	9583

7590 01/25/2008

Lewis F. Gould, Jr.
Duane Morris LLP
One Liberty Place
Philadelphia, PA 19103-7396

EXAMINER	
LEE, BENJAMIN WILLIAM	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
01/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/016,905

Applicant(s)

VON DER GEEST ET AL.

Examiner

Benjamin W. Lee

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 12-15, 17-22, 24-29, 31-40, 42-52 and 70-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 12-15, 17-22, 24-29, 31-40, 42-52 and 70-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. The amendment filed on 10/19/2007 has been entered. Claims 1-8, 10, 12-15, 17-22, 24-29, 31-40, 42-52, and 70-75 are pending in this application. Claims 9, 11, 16, 23, and 41 have been cancelled. Claims 30 and 53-69 have been previously cancelled. Claims 12 and 42 have been amended.

Response to Amendment

2. The declaration filed on 10/19/2001 under 37 CFR 1.131 has been considered but is ineffective to overcome the Might (US 6,766,319 B1) reference.

3. The evidence submitted is insufficient to establish applicant's alleged actual reduction to practice of the invention in this country or a NAFTA or WTO member country after the effective date of the Might reference.

It appears the evidence submitted is sufficient to establish conception prior to effective date of the Might reference, and diligence between conception and the purported date of actual reduction to practice (i.e. January 29, 2001).

However, the evidence submitted is not sufficient to establish actual reduction to practice on January 29, 2001. Exhibit PP is described as "emails dated January 29, 2001 and January 31, 2001 showing the TL Product was complete and went live" (see page 22 of applicant's 37 C.F.R. 1.131 declaration). However, the email seems to contradict the claim that TL Product was complete. The email states: "The challenge ahead is still a pretty hefty one (i.e. finishing off all

the theory, feedback, and then all the time 2 stuff), so we'll need to keep focused on what's left - so expect my usual barrage of Word documents and phone calls..." The email suggests that despite the product going live, there is still work to be done. Neither Exhibit PP nor any other evidence submitted provide sufficient factual evidence that conclusively shows that TL Product had all the claimed features working on January 29, 2001. In particular, the "feedback" function/feature is suggested to be incomplete by Exhibit PP. From the examiner's understanding of the applicant's invention, it appears the feedback function/feature is necessary for the claim limitations of providing "model data" and "evaluation data" (claims 1, 36, 70, 75, and all respective dependent claims) and providing an "action plan" (claims 1, 36, and all respective dependent claims). Screen Shot 11 of Exhibit B further suggests that work on the feedback function/feature is incomplete. The feedback screen shot shown in Screen Shot 11 is clearly from test version of the TL Product, as indicated by the URL (i.e. the private domain <http://212.2.24.162/tlctest/build/>) in contrast to the other screen shots in Exhibit B which have URLs with a public base address (i.e. <http://www.transforminglearning.co.uk>). Thus, the submitted evidence fails to show that TL Product worked for its intended purpose.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 1-8, 10, 12-15, 17-22, 24, 36-40, 42-47, 70-72, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Might (US 6,766,319 B1) in view of Sander et al. (US 2001/0031451 A1).

Re claim 1 and 36: Might discloses a method of assisting in development of an environment, comprising the steps of receiving evaluation data for the environment received from at least one individual participating in the environment, the evaluation data representing impressions of the individual regarding the environment (see Figs. 8 and 9; col. 3, lines 40-52; col. 16, lines 8-19), providing model data to an individual that is responsible at least in part for said environment, the model data representing one or more dimensions of the environment, the model data developed at least in part from the evaluation data, each of said one or more dimensions being associated with at least one characteristic of the individual responsible for the environment (see Figs. 13-16; col. 3, lines 35-46; col. 17, line 26 - col. 18, line 5), and receiving a selection of at least one of the one or more dimensions of the environment received from the individual responsible for the environment (see Figs. 12-14; col. 17, lines 18-42). Although Might is silent with respect to the evaluation data and selection of dimensions being received by a computer processor and a computer program, it is inherent since the system is implemented on

a communications network 140 featuring end user computers 150 and a database server 110 (see Fig. 1; col. 5, lines 18-30).

However, Might fails to teach providing the individual responsible for the environment an action plan for improving at least one characteristic associated with the selected dimension.

Sander et al. teaches a method for interactively monitoring and changing the behavior, attitude, or educational state of an individual of an organization. The system surveys the user's knowledge of a topic and provides an action plan to the user to improve their knowledge (see Fig. 7; ¶ [0169]).

Therefore, in view of Sander et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the feature of providing an action plan to the method and system of Might in order to improve the performance of an individual in a selected area.

Re claim 2 and 37: The teachings of Might as modified by Sander et al. as applied to claims 1 and 36 above have been discussed. Might further discloses receiving evaluation data for the environment from the individual that is responsible at least in part for the environment, the evaluation data representing an impression of the individual regarding the environment (see Fig. 6; col. 16, lines 8-19).

Re claim 3 and 38: The teachings of Might as modified by Sander et al. as applied to claims 2 and 37 above have been discussed. Might further discloses the at least one individual participating in the environment includes a first plurality of students (see col. 8, lines 6-29) and

the individual responsible for the environment is a classroom teacher (see col. 7, lines 42-64).

Although Might is silent with respect to the environment is a classroom teaching environment, it is inherent since the participants may include both teachers and students.

Re claims 17 and 45: The teachings of Might as modified by Sander et al. as applied to claims 2 and 37 above have been discussed. Might further discloses the environment is a school environment (see Table 1, col. 5), the at least one individual participating in the environment includes a first plurality of employees within the school environment (see Table 1, col. 5), and the individual responsible for the environment is a head teacher (see col. 6, lines 58-60).

Re claims 4 and 18: The teachings of Might as modified by Sander et al. as applied to claim 3 and 17 above have been discussed. Might further discloses the step of receiving from the classroom teacher/head teacher a designation of the first plurality of students/employees participating in the classroom teaching environment, the first plurality of students being designated to provide the evaluation data (see col. 3, lines 46-48).

Re claims 8, 15, and 22: The teachings of Might as modified by Sander et al. as applied to claims 1, 3, and 17 above have been discussed. Might further discloses receiving from a second plurality of students/employees reevaluation data for the selected classroom teaching/school environment, the reevaluation data representing impressions of the second plurality of students/employees regarding the classroom teaching/school environment at a time after the evaluation data is received from the first plurality of students/employees and providing

second model data to the classroom teacher/head teacher, the second model data representing the one or more dimensions of the classroom teaching/school environment, the second model data developed at least in part from the reevaluation data, each of the one or more dimensions being associated with at least one characteristic of the classroom teacher/head teacher, the at least one characteristic known to effect a respective dimension. The evaluations may be performed continuously (see col. 3, lines 40-43).

Re claims 10 and 24: The teachings of Might as modified by Sander et al. as applied to claims 8 and 22 above have been discussed. Although Might does not explicitly disclose the second plurality of students/employees includes one or more students/employees from the first plurality of students/employees, it is inherent since topics may be monitored over a period of time (see Fig. 17) and the teacher/head teacher may mandate that users must respond to a topic (see col. 3, lines 50-51).

Re claim 12 and 42: The teachings of Might as modified by Sander et al. as applied to claims 3 and 38 above have been discussed. Might further discloses a plurality of classroom teachers provide evaluation data or a plurality of classroom environments (see col. 7, lines 41-64), the method further comprising receiving from the plurality of classroom teachers priority data for each of the one or more dimensions, the priority data identifying a respective priority level for each of the one or more dimensions (see col. 15, line 45 - col. 16, line 8).

Re claims 5-7, 13, 14, 19-21, 39, 40, 43, 44, 46, 47, and 75: The teachings of Might as modified by Sander et al. as applied to claims 1, 2, 3, 36, 37, and 38 above have been discussed.

However, Might fails to disclose the evaluation data received from students/employees/teachers identify a current perception of the current state of the environment/classroom and an ideal state of the environment/classroom, the model data identifies differences between the perceptions and ideals of students, teachers, and the community/individuals responsible for the environment, individuals participating in the environment, and the community, and model data is presented graphically.

Official Notice was taken in the previous Office Action dated 04/20/2007 which stated “both the concept and advantages of identifying both a current perception and ideal states are well known and expected in the art. Many assessments require input of both perceived and ideal states and use the gap between the two in order to develop plans that address areas with the largest gaps. Furthermore, it is well known to compare the views of teachers, students, and the community and to present data graphically.” Since the applicant failed to traverse the official notice in the response filed 10/19/2007, the official noticed facts taken in the rejection dated 04/20/2007 are now considered admitted prior art. See MPEP § 2144.03(C).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the feature of including ideal states in the evaluation data in order to generate action plans focused on either achieving the personal goals of an individual or improving public perception of a characteristic of an individual.

Re claim 70-72: The teachings of Might as modified by Sander et al. as applied to claim 1 and 2 above have been discussed. Might further discloses that individual responsible for the environment also provides feedback about the environment

7. Claims 25-29, 31-35, 48-52, 73, and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Might as modified by Sander et al. as applied to claims 2, 17, and 45 above, and further in view of Morrel-Samuels (US 5,743,742).

The teachings of Might as modified by Sander et al. as applied to claims 2, 17, 45, and 71 above have been discussed.

However, the teachings of Might as modified by Sander et al. fails to disclose the environmental aspect assessed by employees/individuals participating in the environment is the leadership of a head teacher/individual responsible for the environment.

Morrel-Samuels teaches a system for measuring leadership effectiveness. The assessment includes several leadership styles (see col. 1, line 65 - col. 2, line 4) and characteristics associated with the leadership styles (see Fig. 1B).

Therefore, in view of Morrel-Samuels, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add leadership assessment to the method and system of Might as modified by Sander et al. in order to assist administrators to identify their strengths and weaknesses as leaders so that the administrators may improve their leadership abilities.

Response to Arguments

8. Applicant's arguments filed 10/19/2007 have been fully considered but they are not persuasive. The applicant has submitted a declaration 37 C.F.R. 1.131 in an attempt to swear behind the effective date of the Might reference. The submitted evidence is sufficient to show conception prior to the effective date of the Might reference and diligence up to January 29, 2001, but fails to provide sufficient evidence that the claimed invention was working as intended on January 29, 2001. See above explanation in "Response to Amendments."

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Application/Control Number:
10/016,905
Art Unit: 3714

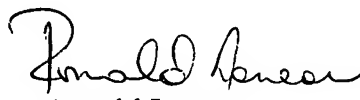
Page 11

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin W. Lee whose telephone number is 571-270-1346. The examiner can normally be reached on Mon - Fri (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BWL
Benjamin W. Lee
January 18, 2008


Ronald Laneau
Primary Examiner
Art Unit 3714

1/22/08

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

AN EQUAL OPPORTUNITY EMPLOYER

Handwritten signature and date: 1/24/08

NOT POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

Handwritten signature

Handwritten signature

RECEIVED
FEB 07 2008
USPTO MAIL CENTER

Handwritten signature